THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.24186 of 2006

21.12.2006

Between:

Pullela Balaiah.

..Petitioner

And

The District Collector, Karimnagar. and others.

..Respondents

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.24186 of 2006

ORDER:

The petitioner is allegedly owner of land admeasuring Acs.3.22 guntas in survey No.394 situated at Arepalli Village of Thimmapur Mandal in Karimnagar District. He allegedly purchased the land from Shaik Salem and his title was also declared by the Court of the District Munsif, Karimnagar in O.S.No.504 of 1974, dated 30.12.1974. His name is also recorded in the revenue registers and considering his application, dated 21.12.1982, for grant of pattadar pass book and title deed, enquiry was initiated. Ultimately, by proceedings, dated 18.08.2004, the entries/mutation in his favour was confirmed. It is alleged that the third respondent herein preferred an appeal before the second respondent on 22.05.2006 under Section 5-B of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 ("the ROR Act", for brevity). The petitioner appeared before the second respondent along with his Lawyer. On 07.11.2006, petitioner gave a representation to the first respondent requesting for transfer of the case from the second respondent to any other competent Revenue Divisional Officer to decide the appeal filed by the third respondent. The reason for such transfer is mentioned in the representation as under.

> One person by name P. Rama Devi, W/o P.K.Rao without having any manner of right over my land has filed an appeal against the orders passed by the M.R.O., after laps of one Year on the basis of false, fabricated and bogus documents and without condoning the delay the Appeal was taken on file and without providing sufficient time to me to prove my claim, the R.D.O., is trying to pronounce the orders. In the said case we have already submitted our counter. Unfortunately we came to know that the learned Revenue Divisional Officer, Karimnagar and the Counsel for the Appellant namely Sri P.Gopal Rao is the co-son-in-law of the R.D.O., and the Appellant is also close relative of the R.D.O.; due to which the R.D.O., is showing partisan attitude towards his relative for disposal of the matter. On 06.11.2006 when the matter came up for hearing the Counsel for the Respondent requested time for filing written arguments, but the learned R.D.O., declared in the open Court in the presence of other counsels i.e., he is going to allow the appeal under any circumstances even if written arguments are filed or not. Further, usually the R.D.O., is used to call the matters at 3.00 P.M. every day but this particular matter is called at 11.00 to facilitate his relative to get favourable order. In these circumstances we have no confidence on the R.D.O., and we expect adverse orders on account of his relationship with the

party and also counsel.

As there is no response by the District Collector to the representation made by the petitioner, he invoked the writ jurisdiction of this Court. He prays for a direction to the first respondent to dispose of the representation, dated 07.11.2006.

As the Counsel only requested to dispose of the representation, this Court heard the matter, and no purpose would be served by ordering so, unless such power to transfer the case inheres in the first respondent. Learned counsel for the petitioner placed strong reliance on Section 16 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli ("the Revenue Act", for brevity) in support of the contention that it is competent for the District Collector to transfer the case from the second respondent to any other Revenue Divisional Officer in Karimnagar District. He, however, does not dispute that the ROR Act or the Rules made thereunder do not empower the District Collector/Joint Collector to transfer the case from the file of one recording authority to another or from one appellate authority to another appellate authority. After giving due consideration to Section 158 of the Revenue Act, this Court is not able to countenance the submission. The ROR Act is a special enactment. After coming into force of the special enactment, the preparation of record of rights, issue of pattadar pass books/title deeds and all other matters connected therewith are regulated by the ROR Act and the question of granting pahanies, amending pahanies and granting mutation is however, excluded from the purview of the ROR Act, by reason of Rule 3 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989. Therefore, Section 158 of the Revenue Act is of no avail.

Learned Counsel for the petitioner nextly contends that bias vitiates a decision of a quasi-judicial authority. There cannot be any dispute that 'real bias', 'likelihood bias', and 'apprehension of bias' are species of the broader ground of extraneous circumstances to invalidate an administrative/quasi-judicial order. However, a mere apprehension of bias even before the decision maker ventures into consideration is misconceived. Even if the petitioner apprehends bias, he can always raise such a ground or bring it to the notice of the decision maker. The disqualification of such decision maker suffers by reason of bias. In this case, it is alleged that the third respondent as well as her counsel,
Sri P.Gopal Rao, appearing before the second respondent are closely related to the present Revenue Divisional Officer, Karimnagar. The second respondent would do well to realise that principle that "justice should not only be done, but should be seen to have been done" is not only a dicta applying to judicial officers and judiciary, but equally

applies to quasi-judicial authorities.

Therefore, this Court is not inclined to direct the first respondent to exercise power, which does not vest in him. However, in the interest of justice, this Court is of considered opinion that the Revenue Divisional Officer should consider the following issues before taking up the case on merits.

1. Whether the appeal presented by the third respondent on 22.05.2006 is not barred by limitation as per Section 5-B of the ROR Act? and
2. Whether it is not competent for the Revenue Divisional Officer to hear the appeal preferred by the third respondent?

The second respondent may first decide the above two issues as preliminary issues and take up the matter on merits after giving an opportunity to the petitioner and after examining the original records.

The Writ Petition, with the above observations, is accordingly disposed of. No costs.

_____

(V.V.S.RAO, J)

21.12.2006
GJ